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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re C.G. et al., Persons Coming Under the  
Juvenile Court Law.

IMPERIAL COUNTY DEPARTMENT  
OF SOCIAL SERVICES,

Plaintiff and Respondent,

v.

S.H.,

Defendant and Appellant.

In re S.H. on Habeas Corpus.

D061915

(Super. Ct. No. JJP2263/64)

D062355

APPEAL from a judgment of the Superior Court of Imperial County, Christopher W. Yeager, Judge, consolidated with petition for writ of habeas corpus. Reversed and remanded with directions; petition denied as moot.

S.H. appeals the judgment terminating her parental rights to her children, E.V. and C.G. (together, the children), and has filed a petition for writ of habeas corpus. In her opening brief and petition, S.H. contends the juvenile court failed to comply with the notice requirements of the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.) and the Imperial County Department of Social Services (the Department) failed to satisfy its continuing obligation to inquire and determine whether ICWA applied.

S.H.'s counsel, the children's counsel, and the Department's counsel have filed a stipulation for "a limited reversal of the order terminating parental rights" and immediate issuance of the remittitur. The parties request this court remand the case with the directions that the superior court (1) comply with the inquiry and notice requirements of ICWA and related state law and rules of court and (2) either "reinstate the termination order if [it] determines that proper inquiry and notice has been provided and the . . . children . . . are not Indian children . . . [,]" or "[i]f it is determined that the children fall under the ICWA, . . . set aside [the] findings and orders and conduct new hearings which comply with all provisions of the ICWA." We accept the stipulation, and in light of this, we deny the petition as moot.

There is no reasonable possibility that reversal will adversely affect the interests of nonparties or the public, and there will be no erosion of public trust and no risk of reducing the incentive for pretrial settlement. (Code Civ. Proc., § 128, subd. (a)(8); *In re Rashad H.* (2000) 78 Cal.App.4th 376, 380-381; *In re Francisco W.* (2006) 139 Cal.App.4th 695, 711; Cal. Rules of Court, rule 8.272(c)(1).) The Department's report

for the dispositional hearing says S.H. "recently stated she was an enrolled member of the Apache tribe in New Mexico." At the dispositional hearing, the Department's counsel stated "a lot of developments came out just within the last few days . . . [i]ncluding ICWA involvement . . . ." Nevertheless, the Department made no ICWA inquiry, the court never ordered one, and the Department maintained ICWA did not apply. At the detention hearing, the court found ICWA did not apply. The court made no further ICWA findings.

#### DISPOSITION

The judgment terminating parental rights is reversed. This case is remanded to the juvenile court, with directions to order the Department to conduct a proper ICWA inquiry, give any required ICWA notice and file all required documentation with the court. If, after proper notice, a tribe claims one or both children are Indian children, the court shall proceed in conformity with ICWA. If, on the other hand, no tribe claims either child is an Indian child, the judgment terminating parental rights shall be reinstated. The petition is denied as moot. The remittitur is to issue forthwith.

McCONNELL, P. J.

WE CONCUR:

NARES, J.

AARON, J.